

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

:

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Northwest Pipeline Corporation

Docket No. RP04-386-000

ORDER REJECTING TARIFF FILING

(Issued December 22, 2004)

1. On July 1, 2004, Northwest Pipeline Company (Northwest) submitted tariff sheets to implement procedures for soliciting permanent relinquishments of firm transportation capacity in reverse open seasons. Northwest proposed an August 1, 2004 effective date. Numerous parties intervened in the proceeding, several of whom filed protests. By order issued July 30, 2004, the Commission accepted and suspended until January 1, 2005 the tariff sheets filed by Northwest, and ordered Staff to convene a technical conference to discuss the issues raised by the filing and the intervenors/protestors.¹ Upon further consideration, Northwest's filing is hereby rejected. This order is in the public interest because it allows natural gas pipelines and their customers flexibility in dealing with changes in capacity requirements during the course of capacity replacement projects.

Background

2. Northwest filed tariff sheets to put in place a tariff mechanism for soliciting permanent relinquishments of firm transportation capacity in reverse open seasons. The impetus behind this filing is a finding by the Office of Pipeline Safety of the Department of Transportation that certain segments of Northwest's pipeline system are unsafe, and Northwest must either reduce the operating pressure on the line or remove those unsafe segments. As a first step in initiating its capacity replacement project, Northwest held a "reverse open season" with respect to relinquishment of capacity, to see how much capacity its customers were willing to release before it designed the replacement for the pipe it would have to remove from service. Issues related to the open season process led Northwest to file revisions to its tariff to incorporate its existing business practices for

¹ *Northwest Pipeline Corporation*, 108 FERC ¶ 61,103 (2004) (July 30 Order).

soliciting permanent relinquishments of firm transportation capacity in reverse open seasons.

3. In the July 30 Order, the Commission stated, “Northwest’s filing raises numerous issues, including the appropriateness of pipeline capacity reductions, the structure and eligibility criteria for open seasons contemplated by the tariff changes, the exit fee, including how the fee is derived and why the fee must be paid as a lump sum.”

4. A technical conference was held on August 24, 2004. In addition to Northwest and Staff, the conference was attended by representatives of Duke Energy Marketing America, L.L.C. (Duke), Northwest Natural Gas Company (Northwest Natural), Puget Sound Energy, Inc. (Puget Sound), Snohomish County Public Utility District (Snohomish), Williams Pipeline Company, Sierra Pacific Power Company and Chehalis Power, all intervenors in the proceeding. Northwest made a presentation responsive to the Commission’s order, and all parties were offered the opportunity to comment or raise their own questions. After the conference, parties filed comments and reply comments on Northwest’s proposal.

Discussion

5. As noted in the July 30 Order, the commenters generally do not oppose Northwest’s proposal to hold reverse open seasons, but raise a number of concerns with Northwest’s proposal to add the reverse open season procedures to its tariff. Puget Sound and Snohomish support Northwest’s proposal. Snohomish, however, provides suggested changes it considers necessary to ensure that the procedures are fair and equitable and result in the economic and efficient rationalization of capacity for the system. Northwest Natural requests that the Commission reject the filing without prejudice, arguing that there is no reason for the Commission to approve the addition of these procedures to its tariff at this time and that approval would be contrary to Commission precedent and policy. Duke states that the filing is significantly flawed and requests that the Commission reject the filing or, at a minimum, suspend the filing for five months, subject to the outcome of a technical conference. In addition, Duke argues that the procedures used and the terms and conditions for release of capacity in Northwest’s prior reverse open season are substantially the same as those proposed by Northwest in its instant tariff filing. Duke contends that, because Northwest effectively implemented these tariff provisions prior to filing them, the Commission should promptly initiate an investigation into the capacity replacement project reverse open season. Snohomish urges that Commission action in this proceeding should not retroactively approve or justify the procedures used by Northwest in the capacity replacement project or validate the results of that reverse open season.

6. The comments and reply comments after the technical conference indicate that the issues raised in our July 30 Order have not been resolved. The parties seem to be of the same general view as to Northwest's filing as they were before the technical conference. The question before us is whether Northwest should include within its tariff those provisions it proposes relating to an open season for capacity relinquishment. It is our conclusion, after further review and consideration, that it should not.

7. The Commission does not require that procedures for capacity relinquishment solicitations be included in a pipeline's tariff. In general, pipelines have not included such provisions in their tariffs. Because of the unique circumstances relating to individual construction projects, such tariff provisions would need to be generally applicable and yet include sufficient details to be useful to the pipeline's shippers. The Commission finds that Northwest's proposed tariff provisions fail in this regard. While Northwest sets forth the framework for relinquishment, the critical details of the procedures are left to the individual web site postings for specific projects. For example, in proposed section 29.3, Northwest proposes to post its reverse open season procedures, including deadlines, eligibility criteria (such as the exit fee and contract specific operational flow order option details), terms and conditions of the required binding precedent agreement, evaluation criteria, and implementation schedule. Thus, virtually all the important details of the reverse open season procedures are not delineated in the tariff, but instead will be posted by Northwest at the time it holds a specific reverse open season.

8. Because circumstances may differ from customer to customer, the Commission finds that it generally needs to review, on a case-specific basis, the manner of how risks are to be shared between the pipeline and its customers who desire to relinquish capacity in a capacity replacement project.² When a pipeline undertakes a replacement project, it needs abandonment authority under section 7(b) of the NGA to remove the obsolete facilities, as well as construction authority under section 7(c) of the NGA for the new facilities. Where the replacement project will result in a downsizing of capacity, considerations regarding foreseeable future demand are material to the Commission's determination whether it is in the public interest to grant authorization that will allow abandoned facilities to be replaced by facilities with less capacity. The Commission concludes that the potential issues presented by replacement projects involving reverse open seasons are best left for consideration in the context of a proceeding under section 7 of the NGA, rather than being governed by vague provisions to be included in a pipeline's tariff.

² Compare *Tennessee Gas Pipeline Company*, 103 FERC ¶ 61,275 (2003).

9. The Commission finds that the proposed tariff provisions thus are too vague to be meaningful. Because so many details are left to case-specific negotiations, the tariff provisions offer little guidance to the shippers. The Commission will therefore reject the proposed tariff sheets.

The Commission orders:

The tariff sheets filed in this proceeding by Northwest are rejected.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.